

06/10/2001 04:44:15 PM

Page 1

2001 DRAFTING REQUEST**Senate Amendment (SA-SB55)**

Received: 06/05/2001

Received By: mdsida

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau 6-3847

By/Representing: Onsager

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Addl. Drafters:

Subject: Criminal Law - district attys
 Transportation - motor vehicles
 Criminal Law - miscellaneous

Extra Copies: pjh
 arg
 rlr

Submit via email: NO

Requester's email:

Pre Topic:

LFB:.....Onsager -

Topic:

Use of penalties for vehicle-related offenses; district attorney positions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mdsida 06/06/2001	jdyer 06/06/2001		_____			
/1		gilfokm 06/09/2001	pgreensl 06/06/2001	_____	lrb_docadmin 06/06/2001		
/2			jfrantze	_____	lrb_docadmin		

06/10/2001 04:44:16 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			06/09/2001 _____		06/10/2001		
/3			pgreensl _____		lrb_docadmin		
			06/10/2001 _____		06/10/2001		
/4	kenneda	wjackson	haugeca		lrb_docadmin		
	06/10/2001	06/10/2001	06/10/2001 _____		06/10/2001		

FE Sent For:

<END>

06/10/2001 03:01:17 PM

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/1		gilfokm 06/09/2001	pgreensl 06/06/2001	_____	lrb_docadmin 06/06/2001		
/2		14 WJ 6/10	jfrantze	_____	lrb_docadmin		



06/10/2001 03:01:18 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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pub 6-10

FE Sent For:

<END>

06/06/2001 05:52:47 PM

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/1		1/2 - 6/king 19-01	pgreensl 06/06/2001	<i>[Signature]</i>	lrb_docadmin 06/06/2001		

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12
 cmh
 6/9/01
 6/10/01

6/10
 2001

FE Sent For:

<END>

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May Contact:

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Transportation - motor vehicles
Criminal Law - miscellaneous

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arg
rlr
TNF

Submit via email: **NO**

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1/1	mdsida	1/6 JLD	6/6 Pg	6/6 PSTJRK			

FE Sent For:

<END>

Senator Burke
Representative Kaufert
Representative Huber

DISTRICT ATTORNEYS

Vehicle Fines and Forfeitures and Additional Prosecutors

[LFB Paper #381]

Motion:

Move to provide that: (a) when the cumulative amount retained by a county for fines and forfeitures imposed by the courts under Chapters 341 through 347, 349 and 351 is equal to the amount retained by the county for such fines and forfeitures in 2000-01, the county must remit 100% of such fines and forfeitures that exceed the amount retained by the county in 2000-01 to the State Treasurer, who shall distribute 50% of these funds to the common school fund and 50% to a district attorney fines and forfeitures program revenue appropriation; and (b) create a district attorney fines and forfeitures program revenue appropriation that would receive these funds and provide that these funds could be used to support the costs of prosecutors.

In addition provide \$368,100 PR in 2001-02 and \$734,800 PR in 2002-03 and 14.55 PR assistant district attorney positions as follows: Brown (2.0), Chippewa (0.75), Columbia (1.0), Dane (1.85), Jefferson (0.5), Kenosha (1.0), Juneau (0.5), La Crosse (0.7), Manitowoc (1.0), Marathon (1.0), Outagamie (2.0), Rock (0.5), Sauk (0.5), and Winnebago (1.25). Provide that the 14.55 PR positions would begin January 1, 2002.

Note:

[Change to Base: \$1,102,900 PR, \$1,284,000 PR-REV and 14.55 PR positions]

[Change to Bill: \$1,102,900 PR, \$1,284,000 PR-REV and 14.55 PR positions]

MO#		
Burke	Y	N
Decker	Y	N
Moore	Y	N
Shultski	Y	N
Plache	Y	N
Wirch	Y	N
Darling	Y	N
Welch	Y	N
Gard	Y	N
Kaufert	Y	N
Albers	Y	N
Duff	Y	N
Ward	Y	N
Huebsch	Y	N
Huber	Y	N
Coggs	Y	N

Passes

4-2



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0595/2

MGD:.....

D - Note

LFB:.....Onsager - Use of penalties for vehicle-related offenses; district attorney positions

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

Done

1 At the locations indicated, amend the bill as follows:

558 3

2 1. Page ~~2~~, line ~~2~~: after that line insert:

781m

3 " SECTION ~~20.475~~ 20.475 (1) (g) of the statutes is created to read:

4 20.475 (1) (g) *Fees from vehicle-related offenses.* All moneys received from the

5 state treasurer under s. 59.25 (3) (jm), for salaries and fringe benefits of district

6 attorneys and state employees of the office of the district attorney. "

7 2. Page ~~2~~, line ~~2~~: after that line insert:

897 6
1996 f

8 " SECTION ~~1~~ 59.25 (3) (j) of the statutes is renumbered 59.25 (3) (j) 1. and

9 amended to read:

10 59.25 (3) (j) 1. Retain 10% for fees in receiving and paying into the state

11 treasury all money received by the treasurer for the state for fines and penalties,

except that 50% of the state forfeitures, fines and penalties under chs. 341 to 347, 349 and 351 shall be retained as fees as provided in subd. 2., and retain the other fees for receiving and paying money into the state treasury that are prescribed by law.

History: 1995 a. 201 ss. 266, 267, 269, 270, 284; 1995 a. 225 ss. 151 to 153; 1995 a. 227 s. 202; 1995 a. 269 s. 2; 1995 a. 408 s. 1; 1995 a. 448 s. 60; 1997 a. 27, 35, 135, 211, 237, 248; 1999 a. 9, 32, 74; 1999 a. 150 s. 672.

SECTION 59.25 (3) (j) 2. of the statutes is created to read:

59.25 (3) (j) 2. Retain the lesser of the following amounts as fees for receiving and paying into the state treasury all money received by the treasurer for the state for forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351:

a. An amount equal to 50% ~~Fifty percent~~ of the forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351.

b. The amount that the county treasurer retained under s. 59.25 (3) (j), 1999 stats., as fees from state forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351 in the 2000-01 state fiscal year.

SECTION 59.25 (3) (jm) of the statutes is created to read:

59.25 (3) (jm) If the amount under par. (j) 2. a. exceeds the amount under par. (j) 2. b., forward the difference as fees to the state treasurer. The state treasurer shall deposit all amounts received under this ^{paragraph} ~~subdivision~~ in the general fund and shall credit them to the appropriation account under s. 20.475 (1) (g).

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0595(?dp)

MCD:.....

date

jld 1 dn

The provisions in this amendment may violate Art. X, ^{sec.} § 2, of the Wisconsin constitution, * which requires that the "clear proceeds of all fines" collected in criminal cases be deposited in the school fund. The Wisconsin Supreme Court has interpreted that phrase to mean the costs (or a reasonable estimate of the costs) that the county has incurred in prosecuting the cases in which those fines have been paid. *State ex rel. Commissioners of Public Lands v. Anderson*, 56 Wis. 2d 666, 669, 203 N.W.2d 84 (1973). Under this amendment, however, the fines are likely to be used for district attorney staff involved in other types of cases or for district attorney staff in other counties.

One way around this problem ^{sec.} might be to change how money paid as forfeitures is treated. Nothing in Art. X, § 2, requires that the clear proceeds of forfeitures be * deposited in the school fund, because forfeitures are civil, not criminal, penalties. Therefore, money paid as forfeitures could be allocated between the counties, the appropriation for district attorney offices under s. 20.475 (1) (g), and the school fund.

Michael Dsida
Legislative Attorney
Phone: (608) 266-9867

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0595/1dn
MGD:jld:pg

June 6, 2001

The provisions in this amendment may violate Art. X, sec. 2, of the Wisconsin Constitution, which requires that the "clear proceeds of all fines" collected in criminal cases be deposited in the school fund. The Wisconsin Supreme Court has interpreted that phrase to mean the costs (or a reasonable estimate of the costs) that the county has incurred in prosecuting the cases in which those fines have been paid. *State ex rel. Commissioners of Public Lands v. Anderson*, 56 Wis. 2d 666, 669, 203 N.W.2d 84 (1973). Under this amendment, however, the fines are likely to be used for district attorney staff involved in other types of cases or for district attorney staff in other counties.

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Michael Dsida
Legislative Attorney
Phone: (608) 266-9867



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb05951

MGD:jld/pg

Ekmg

LFB:.....Onsager – Use of penalties for vehicle-related offenses; district attorney positions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

~~retrieve
from
hold~~

1 At the locations indicated, amend the bill as follows:

2 1. Page 558, line 3: after that line insert:

3 "SECTION 781m. 20.475 (1) (g) of the statutes is created to read:

4 20.475 (1) (g) *Fees from vehicle-related offenses.* All moneys received from the
5 state treasurer under s. 59.25 (3) (jm), for salaries and fringe benefits of district
6 attorneys and state employees of the office of the district attorney."

7 2. Page 897, line 6: after that line insert:

8 "SECTION 1996f. 59.25 (3) (j) of the statutes is renumbered 59.25 (3) (j) 1. and
9 amended to read:

10 59.25 (3) (j) 1. Retain 10% for fees in receiving and paying into the state
11 treasury all money received by the treasurer for the state for fines and penalties,

during that fiscal year,
- 2 -
the treasurer has already retained
under this subdivision an
amount equal to

except that 50% of the state forfeitures, fines and penalties under chs. 341 to 347, 349 and 351 shall be retained as fees as provided in subd. 2., and retain the other fees for receiving and paying money into the state treasury that are prescribed by law.

SECTION 1996h. 59.25 (3) (j) 2. of the statutes is created to read:

59.25 (3) (j) 2. Retain the ^{50%} lesser of the following amounts as fees for receiving and paying into the state treasury all money received by the treasurer for the state for forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351^{or}, unless

(a) An amount equal to 50% of the forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351.

~~(b)~~ The amount that the county treasurer retained under s. 59.25 (3) (j), 1999 stats., as fees from state forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351 in the 2000-01 state fiscal year.

use
2
times

SECTION 1996j. 59.25 (3) (jm) of the statutes is created to read:

59.25 (3) (jm) If the amount under par. (j) 2. a exceeds the amount under par. ~~1996h~~ forward the difference as fees to the state treasurer. The state treasurer shall deposit all amounts received under this paragraph in the general fund and shall credit them to the appropriation account under s. 20.475 (1) (g).".

(END)

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for the state for forfeitures, fines, and
penalties under chs. 341 to 347, 349,
and 351 if, during that fiscal year,
the treasurer has already
retained under par. (j) 2.
an amount equal to



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0595/2
MGD:jld&kmg:cmh
③
\$cjs

LFB:.....Onsager – Use of penalties for vehicle-related offenses; district attorney positions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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7 penalties under chs. 341 to 347, 349, and 351, unless, during that fiscal year, the
8 treasurer has already retained under this subdivision an amount equal to the
9 amount that the treasurer retained under s. 59.25 (3) (j), 1999 stats., as fees from
10 state forfeitures, fines, and penalties under chs. 341 to 347, 349, and 351 in the
11 2000–01 state fiscal year.

12 **SECTION 1996j.** 59.25 (3) (jm) of the statutes is created to read:

13 59.25 (3) (jm) Forward to the state treasurer all money received by the
14 treasurer for the state for forfeitures, fines, and penalties under chs. 341 to 347, 349,
15 and 351 if, during that fiscal year, the treasurer has already retained under par. (j)
16 2. an amount equal to the amount that the treasurer retained under s. 59.25 (3) (j),
17 1999 stats., as fees from state forfeitures, fines, and penalties under chs. 341 to 347,
18 349, and 351 in the 2000–01 state fiscal year. The state treasurer shall deposit all
19 amounts received under this paragraph in the general fund and shall credit them to
20 the appropriation account under s. 20.475 (1) (g).”

21 (END)

state

50%
of the

From Paul Onsager

b 0595/

59.25(3)(j)2 + (jm) should mirror fed law
w/ reference to "state" forfeitures, fines and penalties



TODAY
State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0595/84
MGD:jld&kmg&cjs:pg
EDAK
iwly

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19 50% of the amounts received under this paragraph in the general fund and shall
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21 (END)

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16 under par. (j) 2. an amount equal to the amount that the treasurer retained under
17 s. 59.25 (3) (j), 1999 stats., as fees from state forfeitures, fines, and penalties under
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19 shall deposit 50% of the amounts received under this paragraph in the general fund
20 and shall credit them to the appropriation account under s. 20.475 (1) (g).”.

21 (END)